

House Bill 575

By: Representatives McCollum of the 30<sup>th</sup>, Jasperse of the 11<sup>th</sup>, Powell of the 33<sup>rd</sup>, McDonald III of the 26<sup>th</sup>, and Hagan of the 156<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges,  
2 and ferries, so as to authorize notice of certain public hearings by the Department of  
3 Transportation by electronic publication; to authorize such department to negotiate the  
4 acquisition of common property of a condominium association or property owners'  
5 association with the designated board for either such association; to provide standards for  
6 bringing an action to acquire such common property; to provide for the disbursement of  
7 consideration received from such department for common property; to authorize the  
8 establishment and administration of a program by such department for the clearing of rights  
9 of way and the removal of wrecked or abandoned heavy duty vehicles from the rights of way  
10 of interstate highways and limited access highways; to provide for payment of costs relating  
11 to removal or relocation of public utilities through agreement between the department and  
12 utility provider; to provide for related matters; to repeal conflicting laws; and for other  
13 purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 575

- 1 -



41 (B) A copy of the notice of opportunity for public hearing required by  
42 subparagraph (A) of this paragraph shall be furnished at the time of publication to the  
43 United States Department of Transportation, the appropriate departments of state  
44 government, and affected local governments and planning agencies. If no requests for  
45 a public hearing are received in response to a notice published pursuant to  
46 subparagraph (A) of this paragraph within the time specified for the submission of  
47 requests in the published notice, the department shall be deemed to have met the  
48 hearing requirements of this subsection.

49 ~~(C) The opportunity for another public hearing shall be afforded in any case when~~  
50 When the proposed locations or designs of an undertaking are changed from those  
51 presented in the notices ~~specified in~~ published pursuant to subparagraph (B) of this  
52 paragraph or at a public hearing so as to have a substantially different transportation  
53 service; or different social, economic, or environmental effect, a new public hearing  
54 shall be required. Such public hearing shall be held in accordance with the  
55 requirements of this subsection.

56 ~~(D) The opportunity for a public hearing shall be afforded in each case in which the~~  
57 ~~department is in doubt as to~~ The department shall hold a public hearing for an  
58 undertaking in any instance in which federal or state law is unclear as to whether a  
59 public hearing is required.

60 (5)(A) When a public hearing is to be held pursuant to this subsection, two notices of  
61 such hearing shall be published in print or electronically in a newspaper having general  
62 circulation in the vicinity of the proposed undertaking. The first notice shall be  
63 published no less than 30 days prior to the date of the hearing and the second notice  
64 shall be published no less than five days prior or in the last publication date available  
65 prior to the date of the hearing. The department shall publish a copy of such hearing  
66 notice on its public website no less than 30 days prior to the date of the hearing.

67 (B) Copies of the notice for public hearing published pursuant to this paragraph shall  
68 be mailed to the United States Department of Transportation, appropriate departments  
69 of state government, and affected local governments and planning agencies."

70 **SECTION 2.**

71 Said title is further amended by adding a new Code section to read as follows:

72 "32-3-2.1.

73 (a) As used in this Code section, the term:

74 (1) 'Authorized board' means the executive and administrative body designated in a  
75 condominium instrument or property owners' association instrument as the governing  
76 body of common property as set forth in Article 3 or Article 6 of Chapter 3 of Title 44.

77 (2) 'Common property' shall include common elements, as such term is defined in Code  
78 Section 44-3-71 and common areas, as such term in defined in Code Section 44-3-221.

79 (3) 'Declaration' shall have the same meaning as set forth in Code Section 44-3-71.

80 (4) 'Instrument' shall have the same meaning as set forth in Code Section 44-3-221.

81 (5) 'Owner' means any person having interest in property under a declaration or  
82 instrument.

83 (b) Notwithstanding any provision of Chapter 3 of Title 44 to the contrary, when the  
84 department seeks to acquire any common property, the department shall be authorized to  
85 conduct all phases of such pre-acquisition and acquisition with officers of the authorized  
86 board. Unless specified to the contrary in any recorded instrument or declaration, an  
87 authorized board shall be authorized to convey common property to the department on  
88 behalf of all owners. If, during the pre-acquisition or acquisition phase of common property  
89 authorized by this Code section, the department and authorized board fail to agree upon the  
90 terms of acquisition, the department shall be authorized to bring the authorized association  
91 as a party in any action in lieu of each owner; provided, however, that when an owner is  
92 directly impacted by a proposed acquisition in relation to other owners, such owner shall

93 be individually named in the action. An owner shall be bound by the judgment in any  
94 action brought by the department against an authorized association pursuant to this Code  
95 section.

96 (c) Any consideration received by an authorized board in exchange for common property  
97 pursuant to this Code section shall be allocated to each owner pursuant to any ownership  
98 interest set forth in a declaration or instrument."

99 **SECTION 3.**

100 Said title is further amended in Code Section 32-6-2, relating to authority of department,  
101 counties, and municipalities to regulate parking and parking vehicles or leaving vehicles  
102 unattended on right of way of public road on state highway system, by adding a new  
103 paragraph to read as follows:

104 "(5) Notwithstanding any provision of Chapter 11 of Title 40 or Code Section 44-1-13  
105 to the contrary, the department shall be authorized to establish and administer a towing  
106 and recovery program for the restoration of the right of way and the removal from the  
107 right of ways of interstate highways and limited access highways vehicles exceeding  
108 16,000 pounds that have been disabled, damaged, abandoned, or wrecked or are  
109 otherwise inoperable. The authority of the department relating to such towing and  
110 recovery program shall include all powers necessary to create and administer such a  
111 program, including, but not limited to, the power to adopt all policies, procedures,  
112 qualifications, standards, and specifications for towing operators and to establish  
113 incentives for towing operators to carry out and effectuate the purposes of this Code  
114 section. The removal of any vehicle pursuant to the program authorized by this Code  
115 section shall include removal or cleanup of any affected cargo transported or spilled by  
116 any vehicle exceeding 16,000 pounds but not any passenger vehicles or personal property  
117 thereof. Reserved."

118

**SECTION 4.**

119 Said title is further amended in Code Section 32-6-170, relating to payment by department  
120 of costs of removal, relocation, and adjustment of utility facilities necessitated by  
121 construction of public roads, by revising subsection (b) as follows:

122 "(b) The department is authorized to pay or participate in the payment of the costs of  
123 removing, relocating, or making necessary adjustments to any of the following facilities  
124 or any component part thereof if they are owned by a public utility that is publicly,  
125 privately, or cooperatively owned, without regard to whether such facilities were originally  
126 installed upon rights of way of the state highway system, a county road system, or a  
127 municipal street system, where the department has made the determination that (i) such  
128 payments are in the best interest of the public and necessary in order to expedite the staging  
129 of the project; and (ii) the costs of the removal, relocation, or adjustment of such facilities  
130 are included as part of the contract between the department and the department's roadway  
131 contractor for the project or in a written agreement between the utility and the department,  
132 provided that such removal, relocation, or adjustment is made necessary by the  
133 construction or maintenance of a public road by the department: water distribution and  
134 sanitary sewer facilities and systems for producing, transmitting, or distributing  
135 communications, power, electricity, light, heat, gas, steam, waste, and storm water not  
136 connected with highway drainage, including fire and police signals, traffic-control devices,  
137 and street lighting systems."

138

**SECTION 5.**

139 All laws and parts of laws in conflict with this Act are repealed.